

1 Congress mandates that district courts perform an initial screening
 2 of complaints in civil actions where a prisoner seeks redress from a
 3 governmental entity or employee. 28 U.S.C. § 1915A(a). This Court may
 4 dismiss such a complaint, or any portions thereof, before service of
 5 process if it concludes that the complaint (1) is frivolous or
 6 malicious, (2) fails to state a claim upon which relief can be granted,
 7 or (3) seeks monetary relief from a defendant who is immune from such
 8 relief. 28 U.S.C. § 1915A(b) (1-2); see also Lopez v. Smith, 203 F.3d
 9 1122, 1126-27 & n.7 (9th Cir. 2000) (en banc).

11 II.

12 ALLEGATIONS OF THE COMPLAINT

14 Plaintiff alleges that the following nine defendants violated his
 15 civil rights while performing their duties at the Los Angeles Sheriff's
 16 Department Men's Central Jail and Twin Towers Correctional
 17 Facility: (1) County of Los Angeles (the "County"); (2) Sheriff Leroy
 18 D. Baca ("Sheriff Baca"); (3) custody assistant Alex Manning ("Officer
 19 Manning"); (4) psychiatric technician Diane Tiniakoff ("Ms. Tiniakoff");
 20 (5) psychiatrist Dr. Weiss; (6) Sedgwick Claims Management Services
 21 ("Sedgwick"); (7) Sedgwick claims adjuster Greg Abramson ("Mr.
 22 Abramson"); (8) Deputy Yanez; and (9) Doe Defendants one through thirty
 23 ("Does") (collectively "Defendants"). (Complaint at 3-5).¹ Plaintiff
 24 sues all Defendants in their individual capacities and also sues the

26 ¹ The Complaint consists of a form complaint followed by a lengthy
 27 handwritten complaint that attempts to set forth in detail Plaintiff's
 28 allegations. The Court will cite to the form complaint and handwritten
 complaint as though they formed a single, consecutively paginated
 document.

1 County and Sedgwick in their official capacities. (Id.). In addition,
2 the Complaint attempts to raise causes of action against two defendants
3 who are not listed in the form complaint, on the caption of the
4 handwritten complaint, or in the accompanying summons: (10) Los Angeles
5 County Sheriff's Department ("Sheriff's Department"); and (11) the
6 Sheriff's Department Medical Division ("Medical Division"). (Id. at 3-
7 5, 8, 48, 52) (collectively, the "unnamed Defendants"). The Complaint
8 does not indicate whether Plaintiff is suing the Sheriff's Department
9 and Medical Division in their individual or official capacities, or
10 both.

11
12 Plaintiff alleges eight causes of action under both state and
13 federal law. (See Complaint at 41-52). First, Plaintiff alleges that
14 the County, Sheriff Baca, Officer Manning, Ms. Tiniakoff, Dr. Weiss,
15 Deputy Yanez and Does 1-30 "denied Plaintiff medical care after numerous
16 requests" knowing that their actions "were likely to cause Plaintiff
17 [m]ental, emotional, psychological anguish and physical injury." (Id.
18 at 41). Second, Plaintiff alleges that Officer Manning, the County, and
19 Does 1-15 "knowingly used excessive force against Plaintiff" in
20 violation of his Eighth and Fourteenth Amendment rights by "assaulting
21 [and] beating [P]laintiff while [h]andcuffed until it rendered him
22 unconscious causing serious bodily injuries and damages." (Id. at 42).
23 In claims three, four and five, Plaintiff alleges that Officer Manning
24 violated California Civil Code section 51.7 (id. at 44), California
25 Penal Code sections 422.6(a) and 422.75 (id. at 44-45), and California
26 Civil Code section 43 (id. at 45-46) by physically and verbally
27 assaulting Plaintiff due to Plaintiff's sexual orientation. Sixth,
28 Plaintiff alleges that Ms. Tiniakoff, Dr. Weiss, the County and Sheriff

1 Baca subjected Plaintiff to cruel and unusual punishment in violation
2 of his Eighth and Fourteenth Amendment rights by committing him to a
3 "maximum security psychiatric unit without any clothing . . . for weeks
4 in temperatures well under 65 [degrees]" in an attempt "to silence,
5 discipline, humiliate and dehumanize [P]laintiff." (Id. at 46-47).
6

7 Seventh, Plaintiff alleges that unnamed Defendant Medical Division
8 was negligent and deliberately indifferent to his medical needs during
9 his psychiatric commitment by administering his "Anti-AIDS Retro-viral
10 medications" "sparingly and inconsistently," which caused Plaintiff to
11 develop "[r]esistance to his normal and [r]egularly [p]rescribed HIV
12 Suppressant Medication Regimen." (Complaint at 49-50). Eighth,
13 Plaintiff alleges that unnamed Defendant Sheriff's Department
14 negligently "forced Plaintiff to enter into an unsupervised inmate
15 holding cell with General Population inmates" despite Plaintiff's
16 classification as a "homosexual" inmate, which resulted in Plaintiff
17 being "assaulted, attacked and severely beaten unconscious by several
18 inmate gang members." (Id. at 53).
19

20 Plaintiff seeks \$7,500,00.00 in compensatory damages, \$7,500,000.00
21 in exemplary damages, and \$30,000,000.00 in punitive
22 damages. (Complaint at 59). Plaintiff also asks for reasonable
23 attorney fees and costs. (Id. at 58). Finally, Plaintiff seeks
24 declaratory and injunctive relief, asking for a "judicial declaration
25 of the rights and duties of the respective parties" (id. at 57) and an
26 order enjoining "Defendants from engaging in unlawful conduct complained
27 of herein." (Id. at 56, 58).
28

1 governmental liability based on the doctrine of respondeat superior.
2 Monell, 436 U.S. at 691-94. Thus, a government body cannot be held
3 liable under Section 1983 merely because it employs a tortfeasor. Id.
4

5 Plaintiff's allegations primarily involve separate instances of
6 assault, battery and medical negligence by individual defendants.
7 Plaintiff specifically claims that the County "assumes definate [sic]
8 liability and responsibility for the injuries and damages caused through
9 the actions of its representatives and/or employees
10 thereof." (Complaint at 43). However, this theory of vicarious
11 liability is specifically precluded by Monell. Monell, 436 U.S. at
12 691-94.
13

14 Furthermore, these isolated incidents do not suffice to state a
15 claim against the County for an unconstitutional policy. "A plaintiff
16 cannot prove the existence of a municipal policy or custom based solely
17 on the occurrence of a single incident of unconstitutional action by a
18 non-policymaking employee." Davis v. City of Ellensburg, 869 F.2d 1230,
19 1233 (9th Cir. 1989); see also Thompson v. City of Los Angeles, 885 F.2d
20 1439, 1444 (9th Cir. 1989) (noting that "proof of random acts or
21 isolated events are insufficient to establish a custom" within the
22 meaning of Monell). The Complaint does not identify any specific County
23 policy that caused Plaintiff's alleged injuries. Rather, Plaintiff
24 vaguely alleges that the County has "establish[ed] and enforced Rules
25 [and] regulations that [have] caused the [D]efendants to enforce laws
26 to violate the [P]laintiff's rights" (Complaint at
27 43). Insofar as Plaintiff is suing a municipal entity, he must identify
28 some official municipal policy that violated his constitutional rights.

1 Monell, 436 U.S. at 690-91; Christie v. Iopa, 176 F.3d 1231, 1235 (9th
2 Cir. 1999). Accordingly, the Complaint is dismissed with leave to
3 amend.

4
5 **B. Plaintiff Fails To Show Personal Participation By Sheriff Baca And**
6 **Therefore His Claims Against Baca Must Be Dismissed**

7
8 To demonstrate a civil rights violation against county officials,
9 a plaintiff must show either direct, personal participation or some
10 sufficient causal connection between the officials' conduct and the
11 alleged constitutional violation. See Jones v. Williams, 297 F.3d 930,
12 934 (9th Cir. 2002). To be held liable, a supervising officer has to
13 personally take some action against the plaintiff or "set in motion a
14 series of acts by others . . . which he knew or reasonably should have
15 known, would cause others to inflict the constitutional injury" on the
16 plaintiff. Larez v. City of Los Angeles, 946 F.2d 630, 646 (9th Cir.
17 1991) (internal quotations omitted). Government officials may not be
18 held liable for the unconstitutional conduct of their subordinates under
19 a theory of respondeat superior. See Ashcroft v. Iqbal, ___ U.S. ___,
20 129 S. Ct. 1937, 1948, 173 L. Ed. 2d 868 (2009). In order to hold a
21 supervisor liable for civil rights violations, a plaintiff must show
22 either personal participation or a causal connection between the
23 supervisor's wrongful conduct and the constitutional violation. Starr
24 v. Baca, ___ F.3d ___, 2011 WL 2988827, at * 4 (9th Cir. July 25, 2011).

25
26 Plaintiff generally alleges that Sheriff Baca "knowingly denied
27 Plaintiff medical care [a]fter numerous requests" (Complaint at 41) and
28 wrongfully "allowed the other [D]efendants to allow Plaintiff to live

1 in . . . unhealthy and dehumanizing conditions” while in psychiatric
2 segregation. (Id. at 47). However, the Complaint does not allege facts
3 that establish either personal involvement by Sheriff Baca or any causal
4 connection between his actions and the constitutional violations of
5 which Plaintiff complains. The allegations themselves are not
6 plausible, as the Court doubts that Baca was personally involved in the
7 denial of Plaintiff’s requests for medical care. Plaintiff must allege
8 specific facts showing what Sheriff Baca personally did or did not do,
9 when and where, and how his action or inaction directly caused a
10 violation of Plaintiff’s civil rights. Accordingly, Plaintiff’s claims
11 against Sheriff Baca are dismissed. Though it appears unlikely that
12 Plaintiff can rectify the defects in his claims as asserted against
13 Sheriff Baca, the Court nevertheless grants him leave to amend. Lopez,
14 203 F.3d at 1127-29.

15
16 **C. Plaintiff Fails To Show Personal Participation by Deputy Yanez And**
17 **Therefore His Claim Against Yanez Must Be Dismissed**

18
19 Plaintiff sues Deputy Yanez in his individual capacity for being
20 deliberately indifferent to Plaintiff’s medical needs. (Complaint at
21 5, 41). However, the Court cannot identify any factual allegations
22 giving rise to Deputy Yanez’s liability. Plaintiff alleges that Deputy
23 Yanez removed Plaintiff from the general population when other inmates
24 assaulted Plaintiff and later stated that the guards incorrectly and
25 negligently placed Plaintiff with the general population. (Id. at 24,
26 25-26). Plaintiff’s allegations suggest that Deputy Yanez actually
27 saved Plaintiff from injury rather than incurred any responsibility for
28 Plaintiff’s injuries. Thus, Plaintiff’s allegations do not allow the

1 Court to plausibly infer any possible basis for Deputy Yanez's
2 liability. See Iqbal, 129 S. Ct. at 1949. Accordingly, Plaintiff's
3 claim against Defendant Yanez is dismissed, with leave to amend.

4
5 **D. Plaintiff Fails To Show Personal Participation By Dr. Weiss And**
6 **Therefore His Claims Against Weiss Must Be Dismissed**

7
8 As with the claim against Deputy Yanez, the Court cannot identify
9 any factual allegations in the Complaint that would give rise to
10 liability on the part of Dr. Weiss. Plaintiff sues Dr. Weiss in his
11 individual capacity for deliberate indifference to Plaintiff's medical
12 needs and cruel and unusual punishment. (Complaint at 4, 41, 46-47).
13 Plaintiff bases his claims against Dr. Weiss on a general allegation
14 that Plaintiff's requests for medical treatment were ignored (id. at 41)
15 and that Dr. Weiss, along with psychiatric technician Ms. Tiniakoff,
16 "placed Plaintiff in a complete isolation [sic] in a maximum security
17 psychiatric unit" where conditions were so "unhealthy and dehumanizing"
18 as to constitute cruel and unusual punishment. (Id. at 46-
19 47). However, Plaintiff does not identify any specific acts of
20 wrongdoing by Dr. Weiss. Elsewhere in the Complaint Plaintiff appears
21 to allege that only Ms. Tiniakoff ordered his confinement (id. at 24-
22 25), and nowhere does Plaintiff allege that he specifically requested
23 medical care from Dr. Weiss for the physical injuries that appear to
24 form the basis of Plaintiff's deliberate indifference claim. (Id. at
25 24, 41). None of Plaintiff's allegations give rise to the inference
26 that Dr. Weiss took any actions that injured Plaintiff. Accordingly,
27 the claims against Dr. Weiss are dismissed, with leave to amend.

1 **E. Plaintiff Fails To Name Defendants Sedgwick And Mr. Abramson In**
2 **Any Cause Of Action**
3

4 Plaintiff also fails to state a claim against defendants Sedgwick
5 and Mr. Abramson. Plaintiff claims that Sedgwick was hired by the
6 County as the "Administrator for [the] Hospital and professional
7 liability program of the County of Los Angeles" and that Mr. Abramson
8 was a "professional liability claims adjuster" for Sedgwick. (Complaint
9 at 14). Although Sedgwick and Mr. Abramson are named defendants in the
10 Complaint, (Complaint at 4-5, 14), none of Plaintiff's eight causes of
11 action appears to assert any claims against either of these defendants.
12 (See Complaint at 41-56). To state a claim under § 1983, Plaintiff must
13 allege the deprivation of a constitutional right by a person acting
14 under color of law. See Kirtley v. Rainey, 326 F.3d 1088, 1092 (9th
15 Cir. 2003). Because none of Plaintiff's causes of action allege
16 wrongdoing by either Sedgwick or Mr. Abramson, the Complaint must be
17 dismissed as to these two defendants. The Court, in an excess of
18 caution, grants leave to amend. However, Plaintiff is strongly advised
19 to omit claims against any defendant in any future complaint for which
20 Plaintiff cannot allege a factual basis for liability.

21
22 **F. Plaintiff Fails To Properly Name Sheriff's Department And Medical**
23 **Division As Defendants**
24

25 Although Plaintiff attempts to assert causes of action against the
26 the Los Angeles County Sheriff's Department and Medical Division in the
27 body of the Complaint (Complaint at 48-56), the Complaint fails to name
28 these two defendants either in the list of defendants in the form

complaint or on the caption page of the handwritten complaint and their names are omitted from the Summons submitted with the Complaint as well. (Id. at 5-9, 48-56). Individuals or entities named as "defendants" only in the body of the Complaint have not been presented properly as parties, and the Court does not recognize them as defendants in this action. See Fed. R. Civ. P. 10(a); Local Rule 11-3.8(d); see also Ferdik v. Bonzelet, 963 F.2d 1258, 1262-63 (9th Cir. 1992) (affirming dismissal of pro se litigant's civil rights action in lower court for refusal to comply with court orders to name defendants in the caption). If Plaintiff files an amended complaint, he must include in the caption the names of each defendant against whom he is asserting a claim. Furthermore, Plaintiff shall only name defendants who have had personal participation in the alleged civil rights violations.

G. Plaintiff's Complaint Violates Federal Rule Of Civil Procedure 8

Federal Rule of Civil Procedure 8(a)(2) requires that a complaint contain "'a short and plain statement of the claim showing that the pleader is entitled to relief,' in order to 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). To avoid dismissal, a complaint must contain "more than labels or conclusions" or "a formulaic recitation of the elements of a cause of action." Twombly, 550 U.S. at 555; see also Iqbal, 129 S. Ct. at 1949 ("Rule 8 . . . does not require 'detailed factual allegations,' but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation"). In other words, the plaintiff must articulate "enough facts to state a claim to relief that

1 is plausible on its face." Twombly, 550 U.S. at 570. "A claim has
2 facial validity when the plaintiff pleads factual content that allows
3 the court to draw the reasonable inference that the defendant is liable
4 for the misconduct alleged." Iqbal, 129 S. Ct. at 1449. "The
5 plausibility standard is not akin to a 'probability requirement,' but
6 it asks for more than a sheer possibility that a defendant has acted
7 unlawfully" or "facts that are 'merely consistent with' a defendant's
8 liability." Id. In Cafasso, U.S. ex rel. v. General Dynamics C4
9 Systems, Inc., 637 F.3d 1047, 1059 (9th Cir. 2011), the court clarified
10 that lengthy complaints violate Rule 8 if a defendant would have
11 difficulty responding to the complaint.

12
13 Here, Defendants would have difficulty responding to Plaintiff's
14 Complaint. Although not as lengthy as the complaint Cafasso, the length
15 and structure of Plaintiff's Complaint and the vagueness of many of
16 Plaintiff's claims make it difficult to identify the specific factual
17 allegations giving rise to each claim. Plaintiff's Complaint, including
18 both the form complaint and the handwritten complaint, spans sixty
19 pages. (Complaint at 1-60). Plaintiff's Complaint contains a long and
20 rambling narrative of certain events that occurred on April 12, 2010 and
21 from June 22, 2010 through July 21, 2010. (See id. at 16-40). Although
22 it appears that some of Plaintiff's factual allegations may relate to
23 certain of Plaintiff's eight stated causes of action, Plaintiff fails
24 to identify the specific incidents that give rise to each of his
25 individual claims. (See, e.g., id. at 41 (alleging deliberate
26 indifference to Plaintiff's medical needs but not referring to any
27 specific incidents giving rise to Defendants' liability)). Also, the
28

1 Court cannot decipher if Plaintiff's last two causes of action are for
2 negligence or civil rights violations. (See id. at 48-56).

3
4 In addition, the Complaint contains unnecessary details and
5 irrelevant facts, (see, e.g. Complaint at 19 ("Plaintiff Young admits
6 to being frustrated over the events and verbal dispute between himself
7 and Officer Manning")), and long paragraphs containing multiple
8 allegations. (See, e.g., id. at 29). For the above stated reasons,
9 Plaintiff's Complaint fails to satisfy Rule 8 and does not give
10 defendants fair notice of the grounds for Plaintiff's claims. See
11 Twombly, 550 U.S. at 555. Accordingly, the Complaint is dismissed with
12 leave to amend.

13 14 IV.

15 CONCLUSION

16
17 For the reasons stated above, Plaintiff's Complaint is dismissed
18 with leave to amend. If Plaintiff still wishes to pursue this action,
19 he is granted **thirty (30) days** from the date of this Memorandum and
20 Order within which to file a First Amended Complaint. In any amended
21 complaint, the Plaintiff shall cure the defects described above. The
22 First Amended Complaint, if any, shall be complete in itself and shall
23 bear both the designation "First Amended Complaint" and the case number
24 assigned to this action. It shall not refer in any manner to the
25 original Complaint. Plaintiff shall limit his action only to those
26 Defendants who are properly named in such a complaint, consistent with
27 the authorities discussed above.

1 In any amended complaint, Plaintiff should confine his allegations
2 to those operative facts supporting each of his claims. Plaintiff is
3 advised that pursuant to Federal Rule of Civil Procedure 8(a), all that
4 is required is a "short and plain statement of the claim showing that
5 the pleader is entitled to relief." **Plaintiff is strongly encouraged**
6 **to utilize the standard civil rights complaint form when filing any**
7 **amended complaint, a copy of which is attached.** In any amended
8 complaint, Plaintiff should make clear what specific factual allegations
9 give rise his claims. Plaintiff is strongly encouraged to keep his
10 statements concise and to omit irrelevant details. It is not necessary
11 for Plaintiff to cite case law or include legal argument.

12
13 **Plaintiff is explicitly cautioned that failure to timely file a**
14 **First Amended Complaint, or failure to correct the deficiencies**
15 **described above, will result in a recommendation that this action be**
16 **dismissed with prejudice for failure to prosecute and obey Court orders**
17 **pursuant to Federal Rule of Civil Procedure 41(b). Plaintiff is further**
18 **advised that if he no longer wishes to pursue this action, he may**
19 **voluntarily dismiss it by filing a Notice of Dismissal in accordance**
20 **with Federal Rule of Civil Procedure 41(a)(1). A form Notice of**
21 **Dismissal is attached for Plaintiff's convenience.**

22
23 DATED: August 2, 2011

24 /s/
25 SUZANNE H. SEGAL
26 UNITED STATES MAGISTRATE JUDGE
27
28